

DECISION

Dispute Codes OPR, MNSD, FF

Introduction

This hearing dealt with the landlord's amended application for an Order of Possession for unpaid rent, a Monetary Order for unpaid rent, authorization to retain the security deposit and recovery of the filing fee. The tenant did not appear at the hearing. The landlord testified that he had served the tenant with notification of this hearing in person on February 27, 2010 at the landlord's residence. Based upon the landlord's testimony I was satisfied the tenant was notified of this hearing in a manner that complies with the Act and I proceeded to hear from the landlord without the tenant present.

At the commencement of the hearing the landlord advised that the tenant vacated the property on February 27, 2010 and the landlord no longer requires an Order of Possession. Accordingly, I do not provide one with this decision.

Issues(s) to be Decided

1. Is the landlord entitled to a Monetary Order for unpaid rent?
2. Is the landlord entitled to retain the tenant's security deposit?
3. Award of the filing fee.

Background and Evidence

The landlord testified as follows. There is no written tenancy agreement. The tenant and an occupant moved into the rental unit October 1, 2009. The tenant was required to pay rent of \$700.00 per month. One-half of the rent normally arrived from income assistance and the other half was paid in cash by the occupant or the tenant. The tenant had paid a \$245.00 security deposit by way of two instalments of \$175.00 and \$70.00. The tenant failed to pay \$50.00 of rent for January 2010 and \$350.00 for

February 2010. On February 8, 2010 the landlord issued a Notice to End Tenancy for unpaid rent indicating the amount of \$400.00 was outstanding as of February 1, 2010.

In making this application, the landlord is seeking to recover unpaid rent of \$400.00, \$105.00 owed for the security deposit and recovery of the \$50.00 filing fee for a total request of \$555.00.

As evidence for the hearing, the landlord provided a copy of the Notice to End Tenancy and the Shelter Information provided to Ministry of Employment and Income Assistance. The Shelter Information indicates that two persons live in the rental unit and the tenant's portion of the rental amount is \$350.00 per month.

The landlord also mentioned that the tenant abandoned some possessions at the rental unit. The landlord was informed that abandoned possessions with a combined value of \$500.00 or less may be disposed of by the landlord. Otherwise, the landlord is informed to contact the Residential Tenancy Branch for more information.

Analysis

Based upon all of the evidence before me, whether the named tenant is the only tenant or a co-tenant, I am satisfied the landlord is entitled to recover rent of \$400.00 from the tenant as co-tenants are jointly and severally liable for amounts owing under a tenancy agreement.

I grant the landlord's request to retain the \$245.00 security deposit in partial satisfaction of the rent owed. I also award the filing fee paid for this application to the landlord. The landlord is provided a Monetary Order for the balance of \$205.00 [$\$400.00 + \$50.00 - \245.00] to serve upon the tenant.

The portion of the security deposit not paid by the tenant is not included in the award provided to the landlord as security deposit payment may be applied against amounts owed to the landlord and not in addition to amounts owed to the landlord.

The Monetary Order provided to the landlord must be served upon the tenant and may be enforced in Provincial Court (Small Claims) as an Order of that court.

Conclusion

The tenant has vacated and an Order of Possession is no longer required. The landlord is authorized to retain the tenant's \$245.00 security deposit in partial satisfaction of the rent owed and I provide the landlord with a Monetary Order for the balance of \$205.00 to serve upon the tenant.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: April 06, 2010.

Dispute Resolution Officer